

Iowa Department of Transportation

Regulatory Plan August 1, 2010

Regulatory Objectives

The Department of Transportation's current regulatory objectives are to adopt rules that:

- comply with enabling statutes.
- protect the public health, safety, welfare, and environment.
- are reasonable and are not arbitrary, capricious or beyond the authority of the agency.

Proposed Regulatory Actions

Following is a list of proposed "regulatory actions" [defined as each potential rule currently under active consideration or development, excluding those rules that do not have a substantial impact on the legal rights, privileges, or duties of persons] that the Department of Transportation reasonably expects to issue in proposed or final form in fiscal year 2011 or thereafter.

SECTION 1, HIGHWAY

RISE Program

- a. Description: Amend rules related to administration of the Revitalize Iowa's Sound Economy (RISE) program. This will affect 761 IAC Chapter 163.
- b. Legal Basis: Iowa Code section 312.2 and Iowa Code chapter 315.
- c. Need: The department is amending these rules to clarify procedures and requirements.
- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2011.
- e. Contact Person: Craig Markley, Office of Systems Planning, 515-239-1027.

Iowa Scenic Byway Program

- a. Description: Amend rules related to administration of the Iowa Scenic Byway program. This will affect 761 IAC Chapter 132.
- b. Legal Basis: Iowa Code chapter 306D.
- c. Need: The department is amending these rules to clarify procedures and requirements and to update contact information.
- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2011.
- e. Contact Person: Craig Markley, Office of Systems Planning, 515-239-1027.

Signing Manual

- a. Description: Amend rules related to a manual and specifications for a uniform system of traffic control devices used on highways in the state. This will affect 761 IAC Chapter 130.
- b. Legal Basis: Iowa Code section 321.252.
- c. Need: Amend the rule to adopt the newest version of the Manual on Uniform Traffic Control Devices, 2009 edition, as the state's signing manual.
- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2011.
- e. Contact Person: Tim Crouch, Office of Traffic and Safety, 515-239-1513.

Pedestrian, Equestrian, and Bicycle Routes (Sidewalks)

- a. Description: Amend rules related to the construction of curb ramps. This will affect 761 IAC chapter 150.
- b. Legal Basis: Iowa Code chapter 306.
- c. Need: Allows the department to implement the Americans with Disabilities Act guidelines

without being dependant on funding sources under the control of other jurisdictions.

- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2011.
- e. Contact Person: Troy Jerman, Office of Traffic and Safety, 515-239-1470.

Primary Road Access Control

- a. Description: Amend rules related to Primary Road Access Control. This will affect 761 IAC Chapter 112.
- b. Legal Basis: Iowa Code chapter 306A.
- c. Need: To ensure access management guidelines are effective and relevant to today's transportation system demands.
- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2011.
- e. Contact Person: Eric Wright, Office of Traffic and Safety, 515-233-7903.

SECTION 2, MOTOR VEHICLE

Motor Vehicle Records

- a. Description: Amend rules related to release of motor vehicle records in bulk form. Motor vehicle records include any record that pertains to a driver's license, nonoperator's identification card, certificate of title, registration receipt, or registration renewal receipt issued by the department or the county treasurer. This will affect 761 IAC Chapters 610 and 611.
- b. Legal Basis: Iowa Code Chapter 22, Iowa Code section 321.11, Iowa Code section 321A.3, and the Driver's Privacy Protection Act, 18 U.S.C. sections 2721-2725 ("DPPA").
- c. Need: Amend rules to provide agreements and mode of delivery appropriate and specific to records delivered in bulk format.
- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2011.
- e. Contact Person: Mark Lowe, Motor Vehicle Division, 515-237-3121.

Driver's License Vision Standards and Screening

- a. Description: Amend rules relating to driver's license vision standards and vision screening to bring these standards up to date with current recommendations from medical and transportation safety experts. This will affect 761 IAC 604.10, 761 IAC 604.11, and 761 IAC 604.13.
- b. Legal Basis: Iowa Code sections 321.186, 321.186A, 321.193, 321.196.
- c. Need: To ensure these standards are effective and relevant to today's driving environment.
- d. Contemplated Schedule: Complete rulemaking in fiscal year 2011.
- e. Contact Person: Kim Snook, Office of Driver Services, 515-237-3010.

Regulations Applicable to Carriers--Annual Update

- a. Description: Amend rules regarding regulations applicable to carriers by adopting the most recent annual codifications of 49 CFR Parts 107, 171 to 173, 177, 178, 180, 385, and 390 to 399. This will affect 761 IAC 520.1.
- b. Legal Basis: Iowa Code section 321.449 requires the department to adopt rules consistent with the federal motor carrier safety regulations promulgated under United States Code, Title 49, and found in 49 CFR Parts 385 and 390 to 399. Iowa Code section 321.450 requires the department to adopt rules consistent with the federal hazardous materials regulations promulgated under United States Code, Title 49, and found in 49 CFR Parts 107, 171 to 173, 177, 178 and 180.
- c. Need: Each October, a revised edition of 49 CFR is published. To ensure the consistency required by statute, the department annually adopts the specified parts of the most recent annual edition of 49 CFR. The adoption of these regulations by the department will extend their enforcement to commercial vehicles operated intrastate unless exempted by statute.
- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2011.

- e. Contact Person: Dave Lorenzen, Office of Motor Vehicle Enforcement, 515-237-3219.

For-Hire Interstate Motor Carrier Authority--Annual Update

- a. Description: Amend rules regarding for-hire interstate motor carrier authority by adopting the most recent annual codifications of 49 CFR Parts 365-368 and 370-379. This will affect 761 IAC Chapter 529.
- b. Legal Basis: Iowa Code chapter 327B.
- c. Need: Each October, a revised edition of 49 CFR is published. The department annually adopts the specified parts of the most recent annual edition of 49 CFR.
- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2011.
- e. Contact Person: Tina Hargis, Office of Motor Carrier Services, 515-237-3040.

Unified Carrier Registration System

- a. Description: Amend rules to replace the Single State Registration System (SSRS) for motor carriers with the Unified Carrier Registration System (UCR) and the Unified Carrier Registration Agreement (UCRA). This will affect 761 IAC Chapter 529.
- b. Legal Basis: Iowa Code section 327B.1.
- c. Need: To conform to Iowa Code section 327B.1 and reflect Federal Motor Carrier Safety Administration updates.
- d. Contemplated Schedule: Complete rulemaking in fiscal year 2011.
- e. Contact Person: Tina Hargis, Office of Motor Carrier Services, 515-237-3040.

Driver Records

- a. Description: Amend rules to reflect statutory changes to Iowa Code section 321A.3(8) made by Iowa Acts 2009, Senate File 374, which amends the "single-use" restriction for certified abstracts of operating records that are purchased from the department to allow for certain insurance industry uses. This will affect 761 IAC 610.4.
- b. Legal Basis: Iowa Code section 321A.3(8), as amended.
- c. Need: The department is amending the rules to remain consistent with the statutory directive.
- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2011.
- e. Contact Person: Kim Snook, Office of Driver Services, 515-237-3010.

Driver Licensing – Identity Theft

- a. Description: Develop rules related to the removal of inaccurate information from a person's driving record due to identity theft.
- b. Legal Basis: Section 2 of Senate File 356 amended Iowa Code section 321.196.
- c. Need: The legislation requires the department to adopt rules to implement a program for investigation of identity theft that results in convictions or sanctions being entered against a person that did not commit the underlying offense, and for removal of those convictions or sanctions from the persons driving record.
- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2011.
- e. Contact Person: Kim Snook, Office of Driver Services, 515-237-3010 and Paul Steier, Office of Motor Vehicle Enforcement.

Driver Licensing – Suspension for Nonpayment of Fines.

- a. Description: Amend rules to reflect the deletion of language that requires the department to determine if an individual has ability to pay a fine imposed by the courts. This will affect 761 IAC 615.22(1)(b) and 761 IAC 615.22(2).
- b. Legal Basis: Section 11 of Senate File 419 (2009 Acts, 83rd General Assembly) amended Iowa Code section 321.210A.
- c. Need: The department is amending the rules to delete the provision allowing a person to avoid suspension by proving the person cannot pay the fine.
- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2011.
- e. Contact Person: Kim Snook, Office of Driver Services, 515-237-3010.

Driver Licensing – Waiver or Refund of License Fees

- a. Description: Amend rules to reflect the repeal of Iowa Code section 321.192 regarding the waiver or refund of license fees. This will affect 761 IAC 605.10.
- b. Legal Basis: Repeal of Iowa Code section 321.192, Code 2009
- c. Need: The department is amending the rules to remove provisions required by the repealed Iowa Code section.
- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2011.
- e. Contact Person: Kim Snook, Office of Driver Services, 515-237-3010.

Driver Licensing – REAL ID Compliant Driver License/Identification

- a. Description: Amend rules to reflect new federal legislation regarding the issuance of REAL ID compliant licenses and identification cards. This may affect 761 IAC Chapters 600, 601 and 605 and may also require the addition of a new chapter.
- b. Legal Basis: REAL ID was included in Public Law 109-13, the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, signed 2005. PASS ID legislation introduced before Congress as S. 1261, "Providing for Additional Security in States' Identification Act of 2009," may replace REAL ID.
- c. Need: Development of new rules prescribing procedures and requirement options for citizens seeking licenses or IDs compliant with federal security requirements. These detailed rules will supplement the base rules for material compliance established in fiscal year 2010.
- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2011.
- e. Contact Person: Mark Lowe, Motor Vehicle Division, 515-237-3121.

Driver Licensing – Persons Suffering Loss of Consciousness or Loss of Voluntary Control

- a. Description: Amend rules regarding licensing of persons suffering loss of consciousness or voluntary control. This will affect 761 IAC 600.4 and 761 IAC 605.5.
- b. Legal Basis: Iowa Code sections 321.177 and 321.210.
- c. Need: Amendments are needed to remain consistent with current medical advice regarding review and licensing of persons suffering episodes or loss of consciousness or loss of voluntary control.
- d. Contemplated Schedule: Complete rulemaking in fiscal year 2011.
- e. Contact Person: Kim Snook, Office of Driver Services, 515-237-3010.

Commercial Driver Licensing – Reopening Hearing on Disqualification

- a. Description: Amend rules related to reopening an OWI hearing to include contest of a CDL disqualification in the circumstances permitted by Iowa Code section 321J.13(6). This will affect 761 IAC 620.4.
- b. Legal Basis: Iowa Code section 321J.13(6), as amended by 2009 Iowa Acts, Senate File 419.
- c. Need: The department is amending the rules to remain consistent with the statutory directive.
- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2011.

- e. Contact person: Kim Snook, Office of Driver Services, 515-237-3010.

Driver Education

- a. Description: Amend rules regarding qualification and certification of driver's education instructors and behind the wheel instructors. This would affect 761 IAC Chapter 634, 761 IAC 634.6 and 761 IAC 634.7.
- b. Legal Basis: Iowa Code section 321.178, as amended by 2010 Acts (83rd General Assembly), House File 2466, section 1.
- c. Need: The department is amending the rules to remain consistent with the statutory directive.
- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2011.
- e. Contact Person: Kim Snook, Office of Driver Services, 515-237-3010.

Motor Vehicle Legislation – Manufactured/Mobile Home Housing Bill

- a. Description: Amend rules to require mobile home retailers to collect and forward use tax to the county treasurer. This amendment also allows affidavit in lieu of surrender of certificate of title for manufactured and mobile homes. This will affect 761 IAC Chapter 400.
- b. Legal Basis: Senate File 2199, enacted in 2010 legislative session, Iowa Code chapter 435.
- c. Need: The department is amending these rules to establish an affidavit and fees as required by legislation.
- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2011.
- e. Contact Person: Andy Lewis, Office of Vehicle Services, 515-237-3040.

Motor Vehicle Legislation – Temporary Restricted Licenses and Ignition Interlock Devices (IIDs)

- a. Description: Amend rules to transfer district courts' authority to grant the issuance of a temporary restricted license for individuals whose driving privileges have been sanctioned, to the DOT, and expand the issuance of temporary restricted licenses to repeat offenders that have installed IIDs. This will affect 761 IAC Chapter 620.
- b. Legal Basis: House File 2452, enacted in the 2010 legislative session, amended Iowa Code sections 321.215, 321J.4(9), 321J.20, to allow the issuance of a temporary restricted license by the DOT, and sections 321J.4, 321J.9, and 321J.12 regarding eligibility and IID requirements.
- c. Need: The department is amending rules to implement this legislation in compliance with the statutory amendments.

- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2011.
- e. Contact Person: Kim Snook, Office of Vehicle Services, 515-237-3253.

Motor Vehicle Legislation – Electronic Device Use by Minors on Restricted or Graduated Driver Licenses

- a. Description: Amend rules to prohibit the use of cell phones or other hand-held electronic devices while operating a motor vehicle on an instruction permit, intermediate license, school permit, or minor's restricted license. This will affect 761 IAC Chapter 615.
- b. Legal Basis: House File 2456, enacted in the 2010 legislative session, amended Iowa Code sections 321.178, 321.180B, and created section 321.276.
- c. Need: The department is amending rules to implement restrictions for these licenses and sanctions for their violation to remain consistent with the statutory directive.
- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2011.
- e. Contact Person: Kim Snook, Office of Vehicle Services, 515-237-3253.

Driver Licensing – Commercial Driver's License Skills Testing by Community Colleges

- a. Description: Amend rules to allow community colleges to administer the driving skills test required to receive a commercial driver's license (CDL). Community college skills testing will be limited to the school's own students. This will affect 761 IAC Chapter 607.
- b. Legal Basis: Iowa Code section 321.187(2).
- c. Need: The department is amending rules to decrease costs and improve efficiency.
- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2011.
- e. Contact Person: Kim Snook, Office of Vehicle Services, 515-237-3253.

SECTION 3, PUBLIC TRANSIT

School Transportation Services Provided by Regional Transit Systems--Annual Update

- a. Description: Update references to federal regulations. This will affect 761 IAC Chapter 911.
- b. Legal Basis: Iowa Code section 321.377.
- c. Need: Annual update of referenced federal regulations.
- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2011.
- e. Contact Person: Michelle McEnany, Office of Public Transit, 515-239-1659.

SECTION 4, TRAILS

Recreational Trails Program

- a. Description: Amend rules related to administration of the recreational trails program. This will affect 761 IAC Chapter 165.
- b. Legal Basis: Iowa Code chapter 465B.
- c. Need: The department is amending these rules to correct contact information and clarify and streamline procedures.
- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2011.
- e. Contact Person: Craig Markley, Office of Systems Planning, 515-239-1027.

SECTION 5, ADMINISTRATION AND MISCELLANEOUS

Public Records and Fair Information Practices

- a. Description: Amend the rule chapter regarding public records and fair information practices to update contact information and correct references to the department's Records Management Manual. The department also plans to review the entire chapter to determine if the procedures regarding public access to department records should be revised and listing of confidential department records modified. This will affect 761 IAC Chapter 4.
- b. Legal Basis: Iowa Code chapter 22.
- c. Need: The chapter was last revised in 2003, and it needs to be thoroughly reviewed and brought up to date.
- d. Contemplated Schedule: Initiate rulemaking in fiscal year 2011.
- e. Contact Person: Dena Gray-Fisher, Office of Multimedia Services, 515-239-1922.